

MARTHA COAKLEY  
ATTORNEY GENERAL

# THE COMMONWEALTH OF MASSACHUSETTS OFFICE OF THE ATTORNEY GENERAL

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July 17, 2014

Raymond E. Pickles, Town Clerk  
Town of Marion  
2 Spring Street  
Marion, MA 02738

**RE: Marion Annual Town Meeting of May 12, 2014 - Case # 7326  
Warrant Articles # 35, 36, 37, and 39 (Zoning)**

Dear Mr. Pickles:

**Articles 35, 36, 37 and 39** – We approve these Articles, and the map related to Article 39, from the May 12, 2014 Marion Annual Town Meeting. We will return the approved map to you by regular mail.

**Note:** Pursuant to G.L. c. 40, § 32, neither general nor zoning by-laws take effect unless the town has first satisfied the posting/publishing requirements of that statute. Once this statutory duty is fulfilled, (1) general by-laws and amendments take effect on the date that these posting and publishing requirements are satisfied unless a later effective date is prescribed in the by-law, and (2) zoning by-laws and amendments are deemed to have taken effect from the date they were voted by Town Meeting, unless a later effective date is prescribed in the by-law.

Very truly yours,  
MARTHA COAKLEY  
ATTORNEY GENERAL

*Margaret J. Hurley*

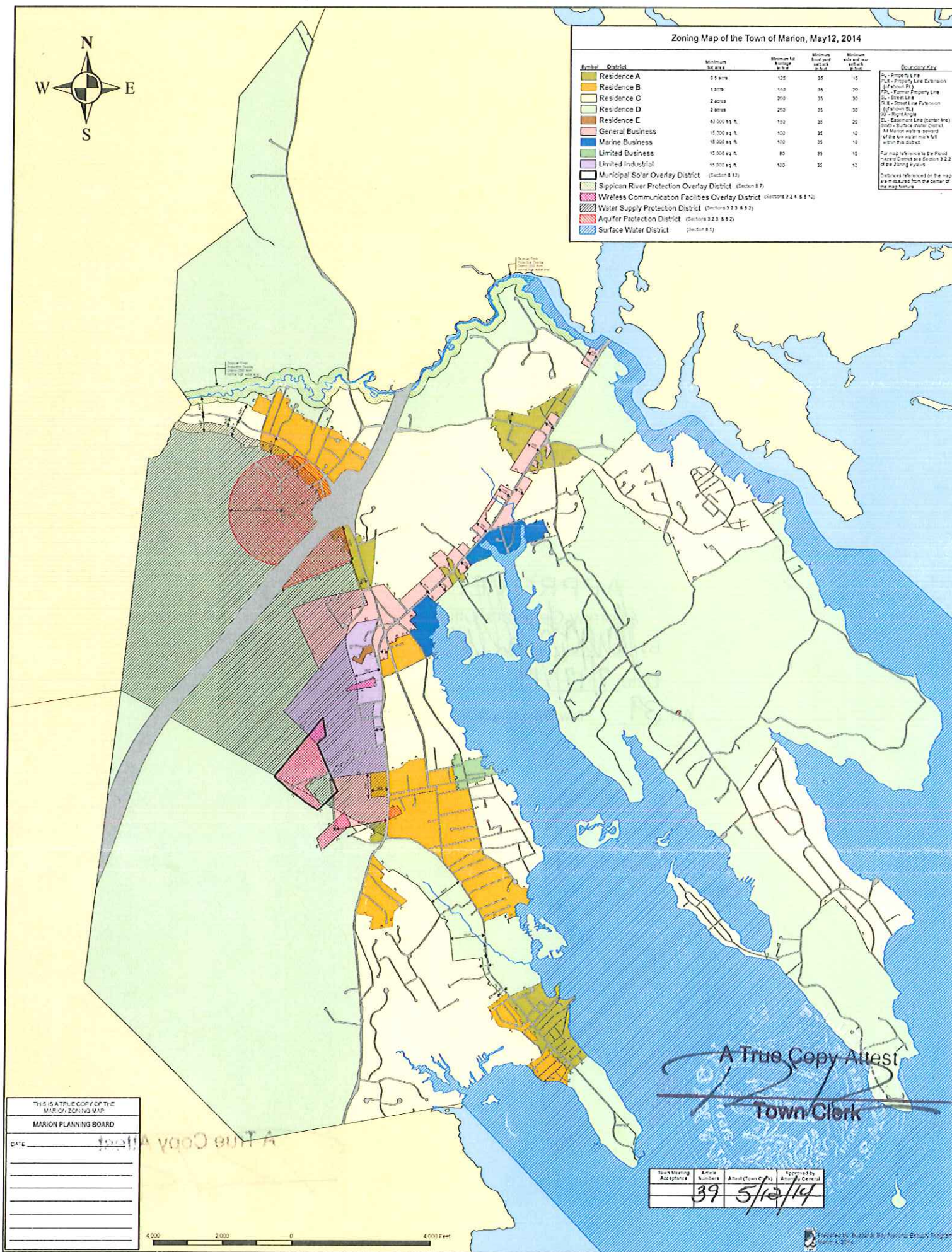
by: Margaret J. Hurley, Assistant Attorney General  
Chief, Central Massachusetts Division  
Director, Municipal Law Unit  
Ten Mechanic Street, Suite 301  
Worcester, MA 01608  
(508) 792-7600 x 4402

cc: Town Counsel Jonathan Witten



# Zoning Map of the Town of Marion, May 12, 2014

Symbol	District	Minimum lot size, sq. ft.	Minimum front yard setback, ft.	Minimum rear yard setback, ft.	Minimum side and rear yard setback, ft.	Regulatory Key
[Yellow]	Residence A	0.5 acre	120	35	15	PL - Property Line
[Orange]	Residence B	1 acre	150	35	20	PL - Property Line Extension (at least 10')
[Light Green]	Residence C	2 acres	200	35	30	PL - Former Property Line
[Light Yellow]	Residence D	2 acres	250	35	30	PL - Street Line
[Light Orange]	Residence E	40,000 sq. ft.	150	35	30	PL - Street Line Extension (at least 10')
[Pink]	General Business	15,000 sq. ft.	100	35	10	PL - Right of Way
[Blue]	Marine Business	15,000 sq. ft.	100	35	10	PL - Right of Way
[Light Purple]	Limited Business	15,000 sq. ft.	80	35	10	PL - Right of Way
[Light Blue]	Limited Industrial	15,000 sq. ft.	100	35	10	PL - Right of Way
[Green]	Municipal Solar Overlay District (Section 8.13)					PL - Right of Way
[Light Green]	Sippican River Protection Overlay District (Section 8.7)					PL - Right of Way
[Pink]	Wireless Communication Facilities Overlay District (Sections 3.2.4 & 8.10)					PL - Right of Way
[Blue]	Water Supply Protection District (Sections 3.2.3 & 8.2)					PL - Right of Way
[Red]	Aquifer Protection District (Sections 3.2.3 & 8.2)					PL - Right of Way
[Blue]	Surface Water District (Section 8.3)					PL - Right of Way



A True Copy Attest  
*[Signature]*  
Town Clerk

THIS IS A TRUE COPY OF THE  
MARION ZONING MAP  
MARION PLANNING BOARD  
DATE \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Town Meeting Acceptance	Action Number	Adopted (Town Clerk)	Approved by Mayor/Clerk
	39	5/12/14	







## TOWN OF MARION

Town Clerk's Office  
2 Spring Street  
Marion, MA 02738  
Phone: (508)748-3502  
Fax: (508)748-2845

July 1, 2014

**Article 35.** Motion was made and seconded that the Town will amend the Zoning By-Laws of the Town to create a new Section 17, et seq. of the Zoning Bylaw entitled "Medical Marijuana Treatment Centers (also known as Marijuana Dispensaries)" said new Section 17, et seq. to limit the siting and operation of Medical Marijuana Treatment Centers to locations appropriate to such use, and to regulate such use through the issuance of a special permit and the imposition of conditions necessary to protect community safety while ensuring legitimate patient access throughout the Town of Marion substantially as follows:

### **SECTION 17 REGULATION OF MEDICAL MARIJUANA TREATMENT CENTERS OR REGISTERED MARIJUANA DISPENSARIES**

#### **17.1 Purpose**

The purposes of this Bylaw are:

to exercise lawful oversight and regulation of Medical Marijuana Treatment Centers (also known as Registered Marijuana Dispensaries), consistent with Chapter 369 of the Acts of 2012, 105 CMR 725.00 et seq., and the Town's regulatory powers; and

to limit the siting and operation of Medical Marijuana Treatment Centers to locations appropriate to such use, and to regulate such use through conditions necessary to protect community safety while ensuring legitimate patient access.

#### **17.2 Applicability**

1. The commercial cultivation, production, processing, assembly, packaging, retail or wholesale sale, trade, distribution or dispensing of marijuana for medical use is prohibited unless permitted as a Medical Marijuana Treatment Center under this Bylaw.

2. No Medical Marijuana Treatment Center shall be established except in conformity with this Bylaw; with all regulations promulgated by the Board of Health; and with the requirements of 105 CMR 725.00 et seq.

3. Nothing in this Bylaw shall be construed to supersede any state or federal laws or regulations governing the sale and distribution of narcotic drugs.

#### **17.3 Definitions**

Marijuana means all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; and resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil, or cake or the sterilized seed of the plant which is incapable of germination. Marijuana also includes Marijuana-infused Products (MIPs) except where the context clearly indicates otherwise.

Marijuana-infused Product (MIP) means a product infused with marijuana that is intended for use or consumption, including but not limited to edible products, ointments, aerosols, oils, and tinctures. These products, when created or sold by an RMD, shall not be considered a food or a drug as defined in M.G.L. c. 94, § 1.

Medical Marijuana Treatment Center means a not-for-profit entity registered under 105 CMR 725.100, to be known as a registered marijuana dispensary (RMD), that acquires, cultivates, possesses, processes (including development

of related products such as edible MIPs, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers, as those terms are defined under 105 CMR 725.004. Unless otherwise specified, RMD refers to the site(s) of dispensing, cultivation, and preparation of marijuana

Medical use of marijuana means the acquisition, cultivation, possession, processing (including development of related products such as tinctures, aerosols, or ointments), transfer, transportation, sale, distribution, dispensing, or administration of marijuana, for the benefit of qualifying patients in the treatment of debilitating medical conditions, or the symptoms thereof, as those terms are defined under 105 CMR 725.004.

Registered Marijuana Dispensary (RMD) has the same meaning as Medical Marijuana Treatment Center.

Special Permit Granting Authority (SPGA) pursuant to this Bylaw shall be the Planning Board.

#### 17.4 Eligible Locations

1. Medical Marijuana Treatment Centers may be allowed by Special Permit in the Limited Industrial Zoning District, subject to all requirements of this Zoning Bylaw, the requirements of the Board of Health, and of 105 CMR 725.00 et seq.

#### 17.5 General Requirements and Conditions

The following requirements and conditions shall apply to all Medical Marijuana Treatment Centers:

1. All Medical Marijuana Treatment Centers must obtain a Special Permit from the Special Permit Granting Authority, in compliance with all requirements of Section 7.2 of the Zoning Bylaw, in addition to the particular requirements of Section 17.6, below.
2. All Medical Marijuana Treatment Centers must obtain Site Plan Approval from the Planning Board in compliance with all requirements of Section 9 of the Zoning Bylaw, pursuant to Major Site Plan Review under Section 9.1.2 of the Bylaw and Section 17.7, below.
3. No Special Permit shall issue without demonstration by the applicant of compliance with all applicable state laws and regulations, and with all local regulations.
4. No Medical Marijuana Treatment Center shall be located within 300 feet of a residential zoning district, or within 500 feet of any lot containing a school, child care facility, or playground.
5. No smoking, burning or consumption of any product containing marijuana or marijuana-related products shall be permitted on the premises of a Medical Marijuana Treatment Center.
6. No products shall be displayed in the facilities windows or be visible from any street or parking lot.
7. Signs for all Medical Marijuana Treatment Centers must be approved by the Special Permit Granting Authority through Site Plan Review pursuant to Section 9 of the Zoning Bylaw, and consistent with the provisions of 105 CMR 725.105(L) ("Marketing and Advertising Requirements")

#### 17.6 Special Permit Requirements

A Medical Marijuana Treatment Center shall be allowed only by Special Permit in accordance with G.L. c. 40A, s. 9; with all requirements of Section 7.2 of the Zoning Bylaw; and with the additional requirements contained in this Section (17.6), below.

1. Uses. A Special Permit for a Medical Marijuana Treatment Center shall be limited to one or more of the following uses:
  - A. cultivation of Marijuana for Medical Use
  - B. processing and packaging of Marijuana for Medical Use, including Marijuana that is in the form of smoking materials, food products, oils, aerosols, ointments, and other products; or
  - C. retail sale or distribution of Marijuana for Medical Use to Qualifying Patients, as that term is defined in 105 CMR 725.004.
2. Application. In addition to the application requirements set forth in the rules of the Special Permit Granting Authority, a Special Permit application for a Medical Marijuana Treatment Center shall include the following:



- A. the name and address of each owner of the establishment and property owner;
- B. copies of all required licenses and permits issued to the applicant by the Commonwealth of Massachusetts and any of its agencies for the establishment;
- C. evidence of the applicant's right to use the site for the establishment, such as a deed, or lease;
- D. Proposed security measures for the Medical Marijuana Treatment Center demonstrating compliance with all requirements of 105 CMR 725.110, "Security Requirements for Registered Marijuana Dispensaries," including but not limited to secure storage areas, limited access areas, security and alarm systems compliant with 105 CMR 725.110(D) The security measures shall be reviewed and approved by the Police Department.

Pursuant to 105 CMR 725.200 (C), the above information is confidential and exempt from the provisions of G.L. c. 66; as such, it shall not be part of the public record.

- E. Proposed Operations and Maintenance Manual for the Medical Marijuana Treatment Center demonstrating compliance with all requirements of 105 CMR 725.110, "Security Requirements for Registered Marijuana Dispensaries," including but not limited to procedures for limiting access to the facility to persons authorized under 105 CMR 725.110(A); and procedures for transport of marijuana and/or MIPs as provided under 105 CMR 725.110(E).

Pursuant to 105 CMR 725.200 (C), the above information is confidential and exempt from the provisions of G.L. c. 66; as such, it shall not be part of the public record.

3. Hours of Operation. The hours of operation of a Medical Marijuana Treatment Center shall be established by the Special Permit Granting Authority.
4. Term of a Special Permit. Special Permits shall be valid for a period of two (2) years from the effective date of the special permit.
5. Transferability of a Special Permit. Special Permits may be transferred only with the approval by the Special Permit Granting Authority, in the form of an amendment to the Special Permit, conditioned upon satisfactory submission of all information required for an original Special Permit.
6. Renewals. A Special Permit may be renewed for successive two (2) year periods provided that a written request for renewal is made to the Special Permit Granting Authority not less than three (3) months prior to the expiration of the then-existing term. Any request for a renewal of a Special Permit shall be subject to publication notice requirements as required for an original application for a Special Permit. Such notice shall state that the renewal request will be granted unless, prior to the expiration of the existing Special Permit, a written objection, stating reasons for such objection, is received by the Special Permit Granting Authority.
  - 6.1. If any such objection is received, the Special Permit Granting Authority shall hold a public hearing on the renewal request and shall proceed in a manner consistent with the proceedings required for an original application.
  - 6.2. The Special Permit shall remain in effect until the conclusion of the public hearing and decision of the Special Permit Granting Authority either granting or denying the Special Permit renewal request.
  - 6.3. In granting any renewal, the Special Permit Granting Authority may alter or impose additional conditions, and/or may provide for revocation of the Special Permit if any identified violations of this Bylaw or any other applicable regulation are not corrected within a specified time period.


#### 17.7 Site Plan Approval

A Medical Marijuana Treatment Center shall be allowed only upon Site Plan Review and Approval by the Planning Board in accordance with all requirements of Section 9 of the Zoning Bylaw. All applications for Medical Marijuana Treatment Centers shall be subject to Major Site Plan Review as provided in Section 9.1.2 of the Zoning Bylaw.

#### 17.8 Severability

If any provision of this Section or the application of any such provision to any person or circumstance shall be held invalid, the remainder of this Section, to the extent it can be given effect, or the application of those provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby, and to this end the provisions of this Section are severable.

*I, Ray E. Pickles, hereby certify that the forgoing is a true copy of the minutes of the action taken under Article 35 of the Town Meeting held on May 12, 2014.*

  
Ray E. Pickles  
Town Clerk



## TOWN OF MARION

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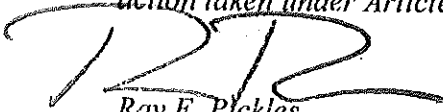
July 1, 2014

**Article 36.** Motion was made and seconded that the Town will amend Section 4.2 "N" of the Zoning Bylaw (Table of Principal Uses) by inserting the letter "PB" in Limited Industrial zoning district preceded by the words "Medical Marijuana Dispensary, Treatment Center" as follows:

Principal Uses	R	RE	GB	LB	MB	LI	CP	MSOD
Medical Marijuana Dispensary, Treatment Centers		N	N	N	N	N	PB	N N

*Declared carried by 2/3 vote 10:31PM*

*I, Ray E. Pickles, hereby certify that the forgoing is a true copy of the minutes of the action taken under Article 36 of the Town Meeting held on May 12, 2014.*

  
Ray E. Pickles  
Town Clerk



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July 1, 2014

**Article 37.** Motion was made and seconded that the Town will amend Section 4.2 "N" of the Zoning Bylaw (Table of Principal Uses) by inserting the letter "Y" in all zoning districts preceded by the words "Solar Systems" as follows:

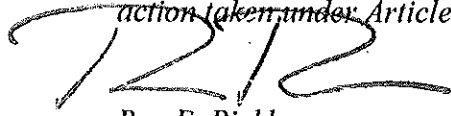
Principal Uses	R	RE	GB	LB	MB	LI	CP	MSOD
Solar Systems (1)	Y	Y	Y	Y	Y	Y	Y	Y
Solar Farms (2)	PB	PB	PB	PB	PB	PB	PB	Y

- (1) In certain circumstances, Solar Systems require a special permit from the Planning Board. See Section 16 of the Zoning Bylaw.
- (2) Solar Farms include ground-mounted solar PV Systems as defined in Sections 8.13.2 and 16.2.7 of the Zoning Bylaw.

*Amendment offered by William Saltonstall @ 10:33PM (Amendment in **BOLD**)*

*Declared carried by 2/3 vote as amended 10:37PM*

*I, Ray E. Pickles, hereby certify that the forgoing is a true copy of the minutes of the action taken under Article 37 of the Town Meeting held on May 12, 2014.*

  
Ray E. Pickles  
Town Clerk





## TOWN OF MARION

Town Clerk's Office

2 Spring Street

Marion, MA 02738

Phone: (508)748-3502

Fax: (508)748-2845

July 1, 2014

**Article 39.** Motion was made and seconded that the Town will amend the Zoning Bylaw by DELETING Sections 3.1, 3.2.1, 3.2.2, 3.2.3 and 3.2.4 as currently written and SUBSTITUTING as noted below, AND, by DELETING the first paragraph of Section 8.2.1 as currently written and SUBSTITUTING that paragraph with that as noted below AND by DELETING Section 8.7.3 as currently written and SUBSTITUTING as noted below:

### 3.1 Types of Districts

For the purposes of this Bylaw, the Town of Marion is hereby divided into the following types of use districts:

Residence A

Residence B

Residence C

Residence D

Residence E

General Business

Marine Business

Limited Industrial

Limited Business

Flood Hazard District

Water Supply Protection District

Aquifer Protection District

Open Space Development District (See Section 12)

Surface Water District

Wireless Communications Facilities Overlay District

Sippican River Overlay District

Municipal Solar Overlay District

### 3.2 Zoning Map

#### 1. Location of Districts

Said districts, with the exception of the Flood Hazard District, are located and bounded as shown on a map entitled "Zoning Map of the Town of Marion", dated May 12, 2014, and filed with the Town Clerk, together with amendments thereto. The zoning map, with all explanatory matter thereon, is hereby made a part of this bylaw. The boundaries of all land use zoning districts adjoining tidal waters shall extend to the low water mark as defined in Chapter 91 Regulations promulgated by the Massachusetts Department of Environmental Protection.

#### 3. Water Supply Protection Area (See Section 8.2)

As delineated on the Zoning Map of the Town of Marion, dated May 12, 2014.

#### 4. Wireless Communications Facilities Overlay District

As delineated on the Zoning Map of the Town of Marion, dated May 12, 2014.

### 8.2 Water Supply Protection

#### 1. District Area (See Section III)

There is hereby established within the town an Aquifer Protection area which is delineated on the Zoning Map of the Town of Marion, dated May 12, 2014

### 8.7 Sippican River Protection Overlay District

#### 3. District Delineation

The area covered by this Overlay District shall be all contiguous portions of the Sippican River in the Town of Marion, its shores and landward up to two hundred feet from the normal high water line. All distances shall be measured in horizontal feet. The upstream boundary of the District is the Rochester town line; the downstream boundary is a line drawn from the tip of Rose Point to the westerly line of the Town beach lot on River Road. This Overlay District is shown on the Zoning Map of the Town of Marion, dated May 12, 2014.

*Patricia McArdle moves to amend article by deleting 3.2.2 in section A.*

*Motion to amend carried 10:38PM*

*Motion carried to accept as amended by 2/3 vote 10:39PM*

*I, Ray E. Pickles, hereby certify that the forgoing is a true copy of the minutes of the action taken under Article 39 of the Town Meeting held on May 12, 2014.*

  
Ray E. Pickles  
Town Clerk